

1 Joshua D. Nadreau (*admitted pro hac vice*)
2 Fisher & Phillips, LLP
3 200 State Street, 7th Floor
4 Boston, Massachusetts 02109
T: 617-722-0044
E: jnadreau@fisherphillips.com

5 Mark J. Ricciardi
6 Nevada Bar No. 3141
7 Fisher & Phillips, LLP
8 300 S Fourth Street
9 Las Vegas, Nevada 89101
T: 702-252-3131
E: mricciardi@fisherphillips.com

10 | Attorneys for Respondents

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NATIONAL LABOR RELATIONS BOARD.

Applicant,

**RED ROCK RESORTS, INC. et al.,
Respondents.**

Case No.: 2:21-cv-01986-RFB-NJK

**RESPONDENTS' UNOPPOSED
MOTION TO MODIFY SCHEDULING
ORDER**

(FIRST REQUEST)

Respondents respectfully move this Court for an Order modifying the current Scheduling Order (ECF 37) to extend the time for responding to Applicant's Renewed Application for Order Requiring Compliance with Subpoenas Duces Tecum Pursuant to Section 11(2) of the National Labor Relations Act, As Amended [29 U.S.C. § 161(2)] by fourteen days from the present deadline of June 10, 2022 until June 24, 2022 pursuant to Local Rule IA 6-1(a). As good cause for Respondents' motion, Respondents state as follows:

1. This is an action to enforce thirteen subpoenas *duces tecum* issued in an underlying unfair labor practice proceeding before an Administrative Law Judge of the National

1 Labor Relations Board (NLRB). The subpoenas themselves each include 317 separately
 2 numbered paragraphs with more than 1100 subparts.

3 2. The NLRB commenced this proceeding on October 29, 2021. Following the
 4 submission of Respondent's Opposition, the NLRB's Reply, and Respondents' Sur-Reply, the
 5 Court denied NLRB's petition without prejudice on February 28, 2022 (ECF 34).

6 3. No activity occurred in this case between the Court's denial of the petition and a
 7 subsequent Order issued April 7, 2022 which directed the parties to file either "(1) a joint
 8 proposed schedule for motion practice and briefing, (2) a joint status report, or (3) dismissal
 9 papers." (ECF 35).

10 4. The parties filed a joint status report on April 21, 2022 but did not propose a
 11 briefing schedule. (ECF 36). On April 22, 2022, the Court set the following briefing schedule:

- | | |
|---|---------------|
| 12 a. Petitioner's Renewed Request for Relief | May 20, 2022 |
| 13 b. Respondents' Response | June 10, 2022 |
| 14 c. Petitioner's Reply | June 20, 2022 |

15 (ECF 37).¹

16 5. On May 20, 2022, Petitioner's filed their request for relief, styled as Renewed
 17 Application for Order Requiring Compliance with Subpoenas Duces Tecum Pursuant to Section
 18 11(2) of the National Labor Relations Act, As Amended [29 U.S.C. § 161(2)] (the "Application").
 19 The Application and supporting document total 991 pages of material. Within Petitioner's
 20 Memorandum of Points and Authorities, Petitioner addresses 14 groupings of specified subpoena
 21

22 23
 24 25
 26
 27 28 ¹ The Court entered the same schedule in a related proceeding, *Local Joint Executive Board of Las Vegas, ex rel. National Labor Relations Board v. Station Casinos, LLC*, Civ. A. 2:22-cv-00100-RFB-NJK (the "Related Case"). See Docket No. 21 (April 22, 2022).

1 requests it is asking the Court to enforce. In total, these 14 groups represent 86 separate requests
2 in the challenged subpoenas, each with multiple subparts.

6. Responding to the Application will involve review of each of the 86 subpoena requests and their subparts, review of whether the information requested is “relevant and material to the investigation[,]”² a determination as to whether the request is “unreasonable because it is overbroad or unduly burdensome[,]”³ and review of Respondents’ production to date to determine what, if anything within Respondents’ possession, custody, and control has yet to be produced. This review will involve the undersigned working with Respondents’ counsel in the underlying NLRB matter intensely over a period of several days, if not weeks. Given the press of commitments in other matters, high school graduation ceremonies, and previously planned vacations, the time to confer is already limited, especially considering Respondents will be responding to a similar filing in the Related Case.⁴

7. Good cause exists for the following requested modification to the Court's April 21, 2022 Scheduling Order, because the additional time will permit Respondents to effectively marshal a response to the Application and hopefully narrow the issues in dispute:

- | | |
|--------------------------|---------------|
| a. Respondents' Response | June 24, 2022 |
| b. Petitioner's Reply | July 5, 2022 |

8. The Petitioner does not oppose the requested modification of the scheduling order.

9. A proposed order is submitted herewith.

² *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005, 1007 (9th Cir. 1996).

3 Id.

⁴ Respondents note that a similar motion will be filed in the Related Case.

1 **WHEREFORE**, Respondents respectfully request that the Court grant this unopposed motion
2 and modify the Scheduling Order as requested herein.

3 Respectfully submitted,

4 FISHER & PHILLIPS LLP

5 /s/ Joshua D. Nadreau
6 Joshua D. Nadreau (*admitted pro hac vice*)
7 Fisher & Phillips, LLP
8 200 State Street, 7th Floor
Boston, Massachusetts 02109

9 Mark J. Ricciardi (Bar #3141)
10 Fisher & Phillips, LLP
11 300 S Fourth Street
Las Vegas, Nevada 89101

12 Attorneys for Respondents

CERTIFICATE OF SERVICE

This is to certify that on the May 25, 2022, the undersigned electronically filed the foregoing Unopposed Motion to Modify Scheduling Order with the U.S. District Court, District of Nevada, and a copy was electronically transmitted from the court to the email addresses on file for:

Marinelly Maldonado, Esq.
Sara S. Demirok, Esq.
Kyler A. Scheid, Esq.

/s/ Joshua D. Nadreau

Joshua D. Nadreau (admitted *pro hac vice*)

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NATIONAL LABOR RELATIONS BOARD,
Applicant,
v.
RED ROCK RESORTS, INC. et al.,
Respondents.

Case No.: 2:21-cv-01986-RFB-NJK

**ORDER GRANTING
RESPONDENTS' UNOPPOSED
MOTION TO MODIFY
SCHEDULING ORDER**

Pending before the Court is Respondents' Unopposed Motion to Modify the Scheduling Order in this matter (Docket No. 39). The Court finds that good cause exists for the requested modification for the reasons stated therein.

IT IS HEREBY ORDERED that Respondents' Unopposed Motion to Modify the Scheduling Order is **GRANTED**. Respondents are ordered to submit their response to the Applicant's Renewed Application (ECF 38) by June 24, 2022, and the Applicant may submit any reply thereto by July 5, 2022. **NO FURTHER EXTENSIONS WILL BE GRANTED.**

IT IS SO ORDERED:

Nancy J. Koppe
United States Magistrate Judge

Dated: May 26, 2022.